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FORM**

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Application Number 10/772,833

Filing Date February 5, 2004

First Named Inventor Mitchell Friedman

Art Unit 3735

Examiner Name Robert L. Nasser

Attorney Docket Number 45422.17.1

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Firm Name	Fredrikson & Byron, P.A.		
Signature	<i>Kara K. Fairbairn</i>		
Printed name	Kara K. Fairbairn		
Date	July 25, 2006	Reg No.	49,079

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In Re Application of:

Mitchell Friedman et al.

Application No.: 10/772,833

Filed: February 5, 2004

For: AUTOMATED BREATH
COLLECTION DEVICETo: Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

) Examiner: Robert L. Nasser

) Group Art Unit: 3735

) Attorney Docket: 45422.17.1

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) By

Jill Schultz

RESPONSE TO RESTRICTION REQUIREMENT

This response responds to the restriction requirement mailed June 27, 2006. The Examiner has required restriction to one of the following inventions under 35 U.S.C. § 121:

I. Claims 1-28, stated by the Examiner as being drawn to an automated breath collection device, classified in class 600, subclass 543; or

II. Claims 29-32, stated by the Examiner as being drawn to a cartridge, classified in class 206, subclass 527.

In response to the restriction requirement, Applicants, through their attorney, provisionally elect the invention of Group I (claims 1-28) with traverse.

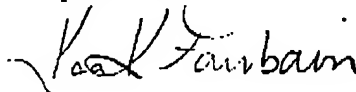
The claims of Groups I-II meet the requirements for consideration in a single application, inter alia, in that they each relate to an automated breath collection device. Further, Applicants traverse the restriction requirement on the grounds that no serious burden on the Examiner exists. If the search and examination of an entire application can be made without serious burden, it must be examined on the merits even though it includes claims directed to distinct or independent invention. M.P.E.P. § 803. The subject matter of Groups I-II are believed sufficiently related that a thorough search for the subject matter of either group would encompass a search for the subject matter of both groups. To avoid duplicative examination by the Patent Office and unnecessary delay and expense to Applicants, Applicants respectfully request examination on the merits of all the claims, not just those of Group I.

Furthermore, Applicants submit that if a determination of an allowable generic claim is issued, claims that are written in dependant form or otherwise include all the limitations of the allowed generic claim should be considered. M.P.E.P. § 809.02(c). Therefore, Applicants respectfully request that the Examiner consider rejoining the claims of Group I and the claims of Groups II upon a finding of allowability of the claims of Group I.

The Commissioner is hereby authorized to charge any additional filing fees required to Deposit Account No. 061910.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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